

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Govind, Inc.,**  
Petitioner-Appellant,

v.

**City of Davenport Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-103-0401**  
**Docket No. 12-103-0467**  
**Parcel No. N2002-02B**

On October 1, 2012, the above-captioned appeals came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Govind, Inc. submitted evidence in support of its petition and was represented by Nick Hunter of Paradigm Tax Group, Chicago, Illinois. The City of Davenport Board of Review designated City Attorney Tom Warner as its legal representative and submitted evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Govind, Inc. (Govind) appeals from the City of Davenport Board of Review decision reassessing its property located at 3300 E Kimberly Road, Davenport, Iowa. According to the property record card, the subject property consists of a 63,128 square-foot, 130-unit, two-story motel built in 1985. The motel has an indoor swimming pool and two elevators. The building has an enclosed entry, three covered porches, a concrete patio, and a canopy. The property is also improved by 69,500 square feet of asphalt paving, 1488 square feet of concrete paving, fencing, and yard lighting. The property is situated on a 4.34-acre site.

The real estate was classified as commercial on the initial assessments of January 1, 2011, and January 1, 2012, and valued at \$2,037,300,<sup>1</sup> representing \$488,700 in land value and \$1,548,600 in improvement value.

Govind protested to the Board of Review in 2011 on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2), and that there was a downward change in value under section 441.37(1) and 441.35. In its 2012 petition to the Board of Review it claimed downward change in value. The Board of Review denied the 2011 and 2012 petitions.

Govind appealed to this Board regarding both assessment years and reasserted its claims of over-assessment and downward change in value. This Board consolidated the 2011 and 2012 appeals. In a re-assessment year (2011), a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim in 2011 and consider only the claim of over-assessment in that year's appeal. We consider downward change in value for the 2012 appeal. In its 2011 Board of Review petition, Govind claimed that \$1,240,000, allocated \$490,000 to land value and \$750,000 to improvement value, was the actual value and a fair assessment of the property.

Nick Hunter testified on behalf of Govind. He offered an appraisal completed by Keith J. Westercamp of Appraisal Associates Company in Cedar Rapids, Iowa. We note Westercamp did not testify regarding his appraisal. Hunter explained that the different capitalization rates (cap rates) used by Westercamp for the 2011 and 2012 valuations were obtained from RealtyRates.com, a publisher of quarterly cap rates. He acknowledges that although Westercamp commented on the need for some

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<sup>1</sup> Assessor's file notes indicate the 2009 property assessment was reduced to \$2,037,300 from the initial value of \$3,655,900 by this Board in Docket No. 09-103-1157. This assessment was maintained for 2010, 2011, and 2012.

adjustments to the sale prices, none were quantified. In Hunter's opinion, the Sale 2 (3305/3315 S Center St., Marshalltown, Iowa) price of over \$26,000 per unit was an outlier.

Westercamp reports he has performed appraisals of a number of other limited-services hotels and of full-service properties. He developed the income and sales approaches to value. He did not complete the cost approach because, in his opinion, it is best used for newer properties with limited depreciation.

He developed an income approach using three years of actual net operating income based on 45% occupancy rate and credit loss, \$44<sup>2</sup> average daily rate (ADR), and \$19.80 revenue per available room. He used a regional PKF<sup>3</sup> report and historical data to arrive at \$949,510 total revenue, \$707,907 in total expenses, and \$241,603 net operating income. Westercamp used a total capitalization rate, which included the tax rate. He used 18.1% for the 2011 value and 17.84% for the 2012 value based on RealtyRates.com and other sources, including brokers. Under the income approach, Westercamp's 2011 value was \$1,450,000 and his 2012 value was \$1,480,000.

Westercamp also developed the sales approach to value using five motel sales from 2005 to 2008 in Davenport, Cedar Rapids, Marshalltown, Urbandale, and Clive. The improvements ranged in size from 31,680 square feet to 92,464 square feet, or 92 rooms to 157 rooms. Unadjusted sale prices ranged from \$28.72 to \$45.20 per square foot, or \$11,013 to \$26,599 per unit.

Westercamp indicates no adjustments were necessary for property rights, financing, sale conditions, and post-sale expenditures. He notes a decline in revenue under market conditions, but does not report any measure of adjustment. He suggests sale prices should be adjusted for superior or inferior locations and physical qualities, but does not quantify any adjustments. No comments were

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<sup>2</sup> We note that the narrative on p. 58 of Westercamp's appraisal indicates an ADR of \$45.00, but it appears he used a \$44.00 ADR in calculating market value under the income approach.

<sup>3</sup> PKF Hospitality Research (PKF-HR) manages an extensive database of hotel property income statements and sale prices. These data provide the foundation for e-business product and custom research relationships with all who have an interest in hotel property financial performance. <https://www.pkfc.com/en/pkf-hr/>



made on age/condition, land-to-building ratio, building size, amenities, franchise, or site size.

Westercamp concludes that the subject property has an adjusted sales price of \$12,000 per room, or a total value of \$1,560,000 for both 2011 and 2012, including furniture, fixtures and equipment (FF&E). Because Westercamp did not report actual, quantified adjustments and overlooks other factors affecting sales price, we are unable to determine the size and reasonableness of his indicated adjustments.

In his final reconciliation, Westercamp gave 80% weight to the income approach and 20% weight to the sales approach, concluding a value of \$1,475,000 for 2011 and \$1,500,000 for 2012. After FF&E (\$130,000) and franchise fee costs (\$50,000) are subtracted from these values, Westercamp concluded a market value of \$1,295,000 for 2011 and \$1,320,000 for 2012.

Deputy City Assessor Tom McManus testified on behalf of the Board of Review. According to the assessor's file notes, the subject property was built as a Hampton Inn, then sold and converted to a La Quinta Inn.<sup>4</sup> Information he provided regarding Motel 6 franchises indicates a \$25,000 one-time franchise fee, 4% royalty fees on gross room revenue and 3.5% marketing fees of gross room revenue. We note Westercamp used franchise and marketing fees and expenses totaling 9.5% of gross income whereas, the Motel 6 data suggests these fees total 7.5% of gross income.

McManus testified he developed the cost and income approaches to value the subject property. Based on Motel 6 data and estimates, he used \$45 ADR and 50% occupancy rate to arrive at a revenue of \$2,135,250 for the 130 unit property. He estimated expenses at 70% of the gross income not including real estate taxes.

McManus used a 14.94% cap rate, including a 3.94% tax constant, to arrive at an estimated market value of \$2,146,372. McManus testified he derived the cap rate from the local market, sales,

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<sup>4</sup> Westercamp's January 14, 2010, appraisal of the subject property indicated it was being operated as a Motel 6. His more recent appraisal of September 20, 2012, indicates that the subject is still being operated as a La Quinta hotel. We assume, because the record does not indicate otherwise, that the property is still operating as a La Quinta franchise.

and an outside consultant. He also reviewed the results of a 2005 to 2009 local survey conducted by the assessor's office. We note a major difference between the two income approaches was the cap rates used. While Westercamp used loaded rates of 18.1% for the 2011 value and 17.84% for the 2012 value, McManus used a 14.94% cap rate for his valuation. This difference contributes to the differences in their estimated value.

The Board of Review submitted evidence of six 2005 to 2012 motel sales and two active listings. The sale prices were divided by the number of rooms to conclude an estimated \$18,000 per unit value. This number applied to the subject property's 130 units yields an estimated market value of \$2,348,000. None of this data was adjusted for age, quality, or location and other factors and we give limited consideration to this valuation method.

The sales data provided by both Westercamp and by the Board of Review was not adjusted to reflect differences between the subject property and the sales properties, which ultimately compromised their usefulness. Additionally, the capitalization rates Westercamp used appeared inflated as compared to national surveys, sales, and reports he referenced; whereas, the Board of Review's cap rate may more closely reflect the local and regional markets. Reviewing the record as a whole, we find the preponderance of the evidence does not establish that the subject property is assessed for more than authorized by law.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). To ensure an accurate comparison, the law requires comparable properties be used. *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 782-783 (Iowa 2009). In order to truly compare properties, adjustments need to be made. *Id.* (noting "the market value of the assessed property must be adjusted to account for differences between the comparable property and the assessed property to the extent differences would distort the market value of the assessed property in the absence of such adjustments"). "Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court," or in this case, PAAB. *Id.* The sales used in the Westercamp appraisal were all dated and some occurred more than five years before the assessment year. He failed to make any adjustments for the time of sale. Although Westercamp's appraisal identified differences between the subject property and the

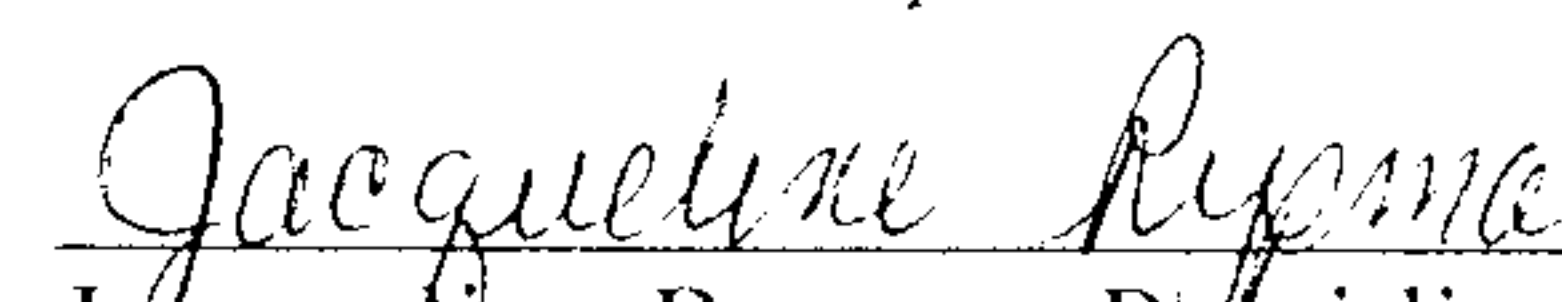


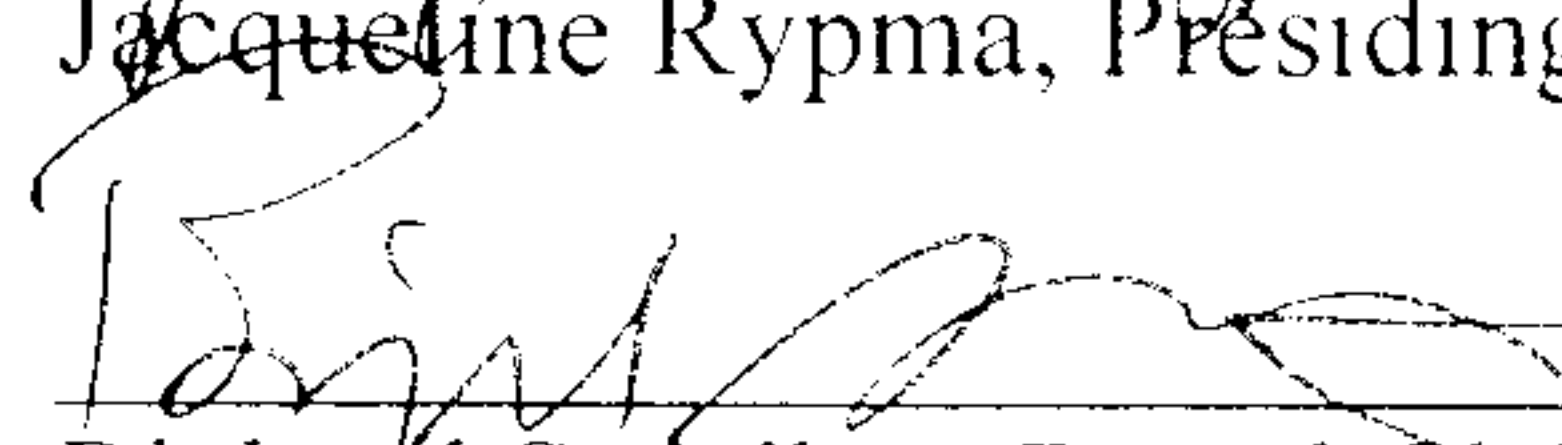
sales properties, there were no quantified adjustments. This failure seriously limits the consideration that can be given to this evidence. We find the preponderance of the evidence fails to support Govind's claims that its property was assessed for more than fair market value in 2011..

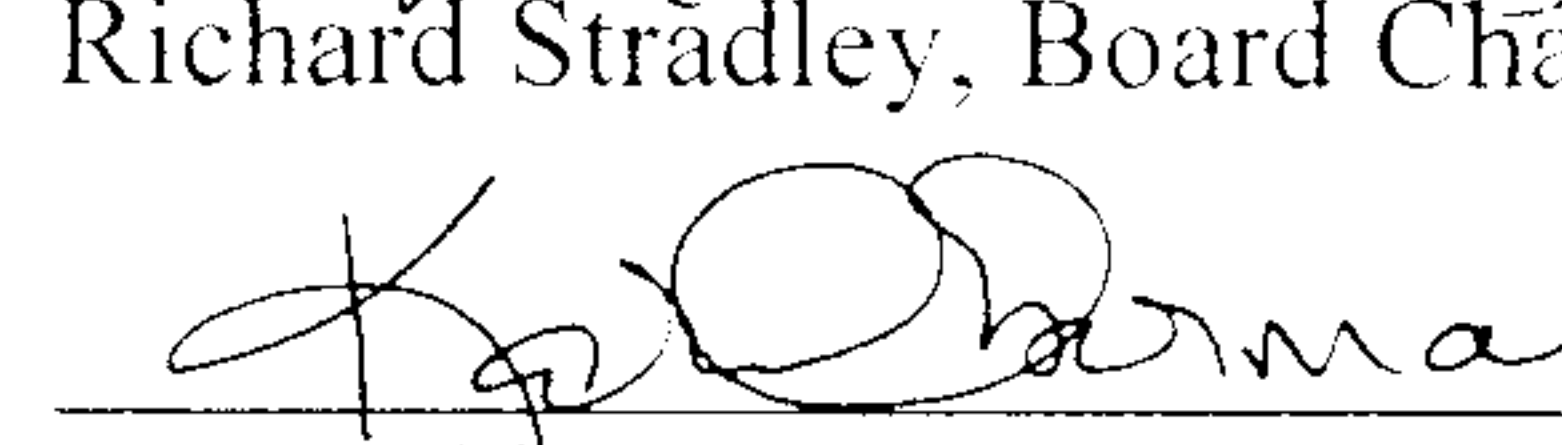
In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there was a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of change in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment is wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Here, Govind asserts that the subject property's market value has declined since January 1, 2011. As previously discussed, however, Govind failed to provide sufficient evidence establishing the subject property's market value as of January 1, 2011 and January, 1, 2012. As a result, Govind's downward change in value claim for 2012 also fails.

Therefore, we affirm Govind's property assessments as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2011, and January 1, 2012, is \$2,037,300, representing, \$488,700 in land value and \$1,548,600 in improvement value.

Dated this 25 day of October 2012.


  
Jacqueline Rypma, Presiding Officer

  
Richard Stradley, Board Chair

  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-25</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>